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# THE RELATION OF RAILROADS TO THE STATE

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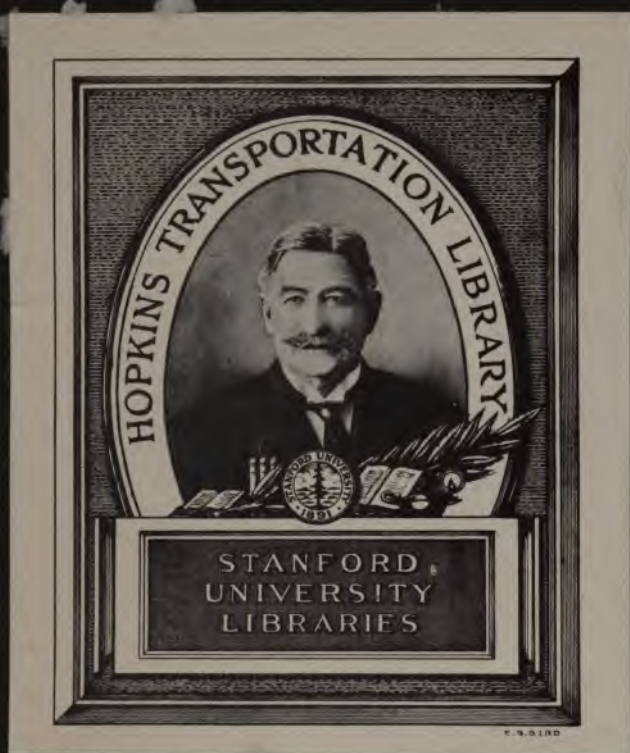
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W. M. ACWORTH, M.A.

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# THE RELATION OF RAILROADS TO THE STATE

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AN ADDRESS

BY

W. M. ACWORTH, M.A.

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# THE RELATION OF RAILROADS TO THE STATE

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I propose to treat the subject in two aspects; first, the history in outline of the relations between railroads and the state in different countries; and second, the question of the factors which are of primary importance in any consideration of the matter.

Ever since the year 1830, when the dramatic success of the Liverpool & Manchester Railway first revealed to a generation less accustomed than our own to revolutionary advances in material efficiency the startling improvements in transport that railroads were about to effect, theorists have discussed the question whether state or private ownership of railroads be in the abstract the more desirable. But it is safe to say that in no country has the practical question, "Shall the state own or not own the railroads?" been decided on abstract considerations. The dominant considerations have always been the historical, political and economic position of the particular country at the time when the question came up in concrete shape for decision.

## BELGIUM.

The Belgian railroads have belonged to the state from the outset, because they were constructed just after Belgium separated from Holland, and (the available private capital being in Holland and not in Belgium) King Leopold and his Ministers felt that, if the railroads were in private hands, that would mean in Dutch hands, and the newly acquired independence of Belgium would be thereby jeopardized. Within the last few years this history has repeated itself, and the fact that the bulk of the Swiss railroad capital was held in France and Germany was one main reason, if not *the* main reason, which induced the Swiss people to nationalize their railroads.

## GERMANY.

In Germany 70 years ago the smaller states were regarded as the personal property of their respective Sovereigns, almost as definitely as Sutherlandshire is the property of the Duke of Sutherland. And it was therefore as natural that the Dukes of Oldenburg or Mecklenburg should make railroads for the development of their estates as that the Duke of Sutherland should build a railroad in Sutherland.

#### AUSTRALASIA.

Take, again, Australasia. In that region the whole of the railroads, with negligible exceptions, now belong to the different state governments, and the public sentiment that railroads ought to be public property is to-day so strong that it is impossible to imagine any serious development of private lines. But at the outset the traditional English preference for private enterprise was just as strong there as it was at home, and it was only the fact that the whole of the available private capital was absorbed in the development of the gold fields and that, therefore, if railroads were to be built at all, public credit must be pledged and English capital must be obtained, that caused the state to go into the railroad business.

#### ITALY.

Take, once more, the case of Italy. In the days when Italy was only a geographical expression, the various Italian states experimented with railroad management of all sorts and kinds. When, after 1870, Italy was unified, it was necessary to adopt a national railroad policy, and the Italian government instituted an inquiry whose exhaustiveness has not since been approached. The force of circumstances has indeed already compelled the government to acquire the ownership of the railroads, but the Commission reported that it was not desirable that the government should work them. The railroads were accordingly leased for a period of 60 years, running from 1884, to three operating companies, and it was provided that the leases might be broken at the end of the 20th or the 40th year. From the very outset a condition of things developed which had not been contemplated when the leases were granted, and for which the leases made no provision. Constant disputes took place between the government and their lessees. Capital for extensions and improvements was urgently needed; neither party was bound to find it; and agreement for finding it on terms mutually acceptable was impossible of attainment. In the end the government has been forced to cut the knot, to break the lease at the end of the first 20 years' period, and for the last two years the Italian government has operated its own railroads. But it is safe to say that an *a priori* preference for state management over private management played but scant part in the ultimate decision.

#### GENERAL INCREASE OF STATE CONTROL.

It is impossible to review, even in the merest outline, the railroad history of all the countries in the world, but the instances already given will serve to illustrate my proposition that the position in each country depends not on abstract considerations, but on the practical facts of the local situation. Yet one cannot look round the world and fail to recognize that the connection between the railroads and the state is everywhere becoming more intimate year by year. Whatever have been the causes, the fact remains that Italy and Switzerland have converted their railroads from private to public. In Germany the few remaining private lines are becoming still fewer. In Belgium the process is practically completed. In Austria it is moving steadily in the same direction: four-fifths of the total mileage is now operated by the state. In Russia the story would have been the same, had it not been for the war with Japan. Even in France, whose railroads have a very definite local and national history of their own, an Act for the purchase of the Western Railway by the state was passed last year by the Chamber of Deputies, and has now, after much contention, been passed by the Senate within the last few weeks. But it is not without interest to note that, though a majority both of deputies and of senators supported the bill, the representatives of the district served by the company were by a large majority opposed to it, while the commercial community of the whole of France, as represented by the Chambers of

Commerce, were almost unanimously hostile.\* So far as can be seen at present, the purchase of the Western Railway by the state is not likely to be made a precedent for the general nationalization of the French railroads. Still, the broad fact remains that a series of railroad maps of the continent of Europe, constructed at intervals of ten years, would undoubtedly show an ever-increasing proportion of state lines, and that the last of the series would exhibit the private lines as very far below the state lines both in extent and in volume of traffic.

A word ought to be said of Holland, not only because Holland is a country with free institutions like our own, but because the railroad position of Holland is unique. The railroads of that country were built partly by the state and partly by private enterprise, but the working has always been wholly in private hands. Some ten years ago, however, the Dutch government bought up the private lines and rearranged the whole system. The main lines of the country are now leased to two operating companies, so organized that each company has access to every important town, and railroad competition is now practically ubiquitous throughout Holland. So far there are no signs that the Dutch people are otherwise than satisfied with their system. Now compare this with France. The French government, though it has hitherto, except on the comparatively unimportant state railroads in the southwest of the country, stood aloof from the actual operation, has always kept entire control of railroad construction and of the allocation of new lines between the several companies. And the French government has proceeded on a principle diametrically opposed to the Dutch principle. In France railroad competition has, as far as possible, been definitely excluded, and the various systems have been made to meet, not, as in Holland, at the great towns, but at the points where the competitive traffic was, as near as might be, a negligible quantity. Now that questions of competition and combination are to the fore in England, and seem likely to give very practical occupation to Parliament in the session of 1909, the precedents on both sides are perhaps not without interest.

#### AMERICA.

When we turn from the continent of Europe to the continent of America the position of affairs is startlingly dissimilar. The railroads of America far surpass in length those of the continent of Europe, while in capital expenditure they are equal. State-ownership and operation of railroads on the continent of America is as much the exception as it is the rule in Europe. In Canada there is one comparatively important state railroad, the Intercolonial, about 1,500 miles in length. Though its earnings are quite considerable—about £20 per mile per week—it barely pays working expenses. I may add that in all the voluminous literature of the subject I have never seen this line cited as an example of the benefits of state management. There is another small line, in Prince Edward Island, which is worked at a loss; and a third, the Temiskaming & Northern Ontario Railway, owned not by the Dominion but by the Provincial government, which is too new to afford any ground for conclusions.

The Federal government of the United States has never owned a railroad, though some of the individual states did own, and in some cases also work, railroads in very early days. They all burnt their fingers badly. But the story is so old a one that it would be unreasonable to found any argument on it to-day.

In Mexico, of which I shall have more to say directly, the state owns no railroads. As for Central America, Costa Rica and Honduras have some petty lines,

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\* Further, it is common knowledge that the Senate only passed the bill (and that by a majority of no more than three) because M. Clemenceau insisted that he would resign if it was not passed, and, though they disliked nationalization much, they disliked M. Clemenceau's resignation more.



which are worked at a loss. Guatemala had a railroad till 1904, when it was transferred to a private company. Nicaragua has also leased its lines. Colombia owns and works at a profit, all of which is said to be devoted to betterment, 24 miles of line.

In South America, Peru and Argentina own, as far as I am aware, no railroads. The Chilean government owns about 1,600 miles out of the 3,000 miles in the country. Needless to say private capital has secured the most profitable lines. The government railroad receipts hardly cover the working expenses. The Brazilian government formerly owned a considerable proportion of its railroad network of nearly 11,000 miles. Financial straits forced it some years ago to dispose of a large part to private companies, to the apparent advantage at once of the taxpayer, the shareholder and the railroad customer. About 1,800 miles of line are still operated by the government, the receipts of which, roughly speaking, do a little more than balance working expenses. But it may be broadly said that the present Brazilian policy is adverse to state ownership and in favor of the development of the railroad system by private enterprise.

#### THE UNITED STATES SITUATION.

The question of public ownership and operation was, however, raised very definitely in the United States only two years ago, when Mr. Bryan made a speech stating that his European experience had convinced him that it was desirable to nationalize the railroads of the United States. For many weeks after, Mr. Bryan's pronouncement was discussed in every newspaper and on every platform, from Maine to California. Practically, Mr. Bryan found no followers, and to-day, though he is the accepted candidate of the Democratic party for the Presidency, the subject has been tacitly shelved. To some extent this may have been due to the ludicrous impossibility, if I may say so with all respect for a possible President, of Mr. Bryan's proposals. In order, presumably, not to offend his own Democratic party, the traditional upholders of the rights of the several states, he seriously suggested that the Federal government should work the trunk lines, and the respective state governments the branches. Even if anybody knew in every case what is a trunk line and what is a branch, the result would be to create an organism about as useful for practical purposes as would be a human body in which the spinal cord was severed from the brain. Mr. Bryan's proposal was never discussed in detail: public sentiment throughout the Union was unexpectedly unanimous against it, and it is safe to say that the nationalization of the railroads of the United States is not in sight at present.

But though nationalization is nowhere in America a practical issue, everywhere in America the relations between the railroads and the state have become much closer within the last few years. Canada a few years ago consolidated its railroad laws and established a Railway Commission, to which was given very wide powers of control both over railroad construction and operation and over rates and fares for goods and passengers. Argentina has also moved in the same direction. In the United States, not only has there been the passage by the Federal Congress at Washington of the law amending the original Act to Regulate Commerce and giving much increased powers to the Interstate Commerce Commission, besides various other Acts dealing with subsidiary points, such as hours of railroad employees, but scores, if not hundreds, of Acts have been passed by the various state legislatures. With these it is quite impossible to deal in detail; many of them impose new pecuniary burdens upon the railroad companies, as, for instance, the obligation to carry passengers at the maximum rate of a penny per mile. All of them, speaking broadly, impose new obligations and new restrictions upon the railroad companies. Not a few have already been declared unconstitutional,

and therefore invalid, by the law courts. And when the mills of American legal procedure shall at length have finished their exceedingly slow grinding, it is safe to prophesy that a good many more will have ceased to operate. But for all that, the net result of state and Federal legislation in the sessions of 1906 and 1907 will unquestionably be that even after the reaction and repeal, which, thanks to the Wall street panic of last year, is now in progress, the railroads of the United States will in the future be subject to much more rigid and detailed control by public authority than there has been in the past. The reign of railroad despotism, more or less benevolent, is definitely at an end; the reign of law has begun. It is only to be regretted that the quantity of the law errs as much on the side of excess as its quality on the side of deficiency.

#### THE MEXICAN SITUATION.

Apart from its interest as a quite startling example of how not to do it, the recent railroad legislation of the United States is only valuable as an indication of the tendency, universal in all countries, however governed, for the state to take a closer control over its railroads. Much more interesting as containing a definite political ideal, worked out in detail in a statesmanlike manner, is the recent railroad legislation of Mexico. One may be thought to be verging on paradox in suggesting that England, with seven centuries of parliamentary history, can learn something from the Republic of Mexico. But for all that I would say, with all seriousness, that I believe the relation between the state and the national railroads is one of the most difficult and important questions of modern politics, and that the one valuable and original contribution to the solution of that question which has been made in the present generation is due to the President of the Mexican Republic and his Finance Minister, Señor Limantour.

Broadly, the Mexican situation is this: The Mexican railroads were in the hands of foreign capitalists, English mainly so far as the older lines were concerned, American in respect of the newer railroads, more especially those which constituted continuations southwards of the great American railroad systems. The foreign companies, whether English or American, naturally regarded Mexico as a field for earning dividends for their shareholders. The American companies further, equally naturally, tended to regard Mexico as an annexe and *dépendance* of the United States. If they thought at all of the interest of Mexico in developing as an independent self-contained state, they were bound to regard it with hostility rather than with favor, and such a point of view could hardly commend itself to the statesmen at the head of the Mexican government. Yet Mexico is a poor and undeveloped country, quite unable to dispense with foreign capital; and, further, it was at least questionable whether Mexican political virtue was sufficiently firm-rooted to withstand the manifold temptations inherent in the direct management of railroads under a parliamentary *régime*. Under these circumstances the Mexicans have adopted the following scheme: For a comparatively small expenditure in actual cash, coupled with a not very serious obligation to guarantee the interest on necessary bond issues, the Mexican government have acquired such a holding of deferred ordinary stock in the National Railroad Company of Mexico as gives them, not, indeed, any immediate dividend on their investment, but a present control in all essentials of the policy of the company, and also prospects of considerable profit when the country shall have further developed. The organization of the company as a private commercial undertaking subsists as before. A board of directors, elected in the ordinary manner by the votes of shareholders, remains as a barrier against political or local pressure in the direction of uncommercial concessions, whether of new lines or of extended facilities or reduced rates on the old lines; but—and here is the fundamental difference between the new system and

the old—whereas under the old system the final appeal was to a body of shareholders with no interest beyond their own dividend, the majority shareholder is now the Government of Mexico, with every inducement to regard the interests, both present and prospective, of the country as a whole.

#### IRREFRAGABLE THEORY OF PUBLIC OWNERSHIP.

Public ownership of railroads is in theory irrefragable. Railroads are a public service; it is right that they should be operated by public servants in the public interest. Unfortunately, especially in democratically organized communities, the facts have not infrequently refused to fit the theories, and the public servants have allowed, or been constrained to allow, the railroads to be run, not in the permanent interest of the community as a whole, but in the temporary interest of that portion of the community which at the moment could exert the most strenuous pressure. The Mexican system, if it succeeds in establishing itself permanently—for as yet it is only on its trial—may perhaps have avoided both Scylla and Charybdis. Faced with a powerful but local and temporary demand, the government may be able to reply that this is a matter to be dealt with on commercial lines by the board of directors. If, on the other hand, permanent national interests are involved, the government can exercise its reserve power as a shareholder, can vote the directors out of office, and so prevent the continuance of a policy which would in its judgment be prejudicial to those interests, however much it might be to the advantage of the railroad as a mere commercial concern.

#### STATE CONTROL OR OWNERSHIP.

The history whose outline I have now very briefly sketched shows, I think, that whereas there is everywhere a tendency towards further state control, the tendency towards absolute state-ownership and state-operation is far from being equally universal. I shall have a word to say presently as to the reasons why America shows no signs of intention to follow the example of continental Europe. Meanwhile it is well to notice that American experience proves also the extreme difficulty of finding satisfactory methods of control. Sir Henry Tyler said some five-and-thirty years ago in England, in words that have often been quoted since, "If the state can't control the railroads, the railroads will control the state;" and President Roosevelt has again and again in the last few years insisted on the same point. "The American people," he has said in effect, "must work out a satisfactory method of controlling these great organizations. If left uncontrolled, there will be such abuses and such consequent popular indignation that state-ownership will become inevitable, and state-ownership is alien to American ideas, and might cause very serious political dangers."

Perhaps some of my hearers may remember Macaulay's graphic description of the passion that was aroused by Charles James Fox's proposed India Bill; it was described as a Bill for giving in perpetuity to the Whigs, whether in or out of office, the whole patronage of the Indian government. The objection felt by American statesmen to handing over their railroads to the National government—for I think it may be taken for granted that if they were nationalized it would have to be wholly under Federal management, and that the separate states could take no part in the matter—is in principle the same. There are something like a million and a half men employed on the railroads of the United States, say roughly 7 or 8 per cent. of the voters. Americans feel that rival political parties might bid against each other for the support of so vast and homogeneous a body of voters; that the amount of patronage placed at the disposal of the executive government for the time being would be enormous; and that the general interests of the nation might be sacrificed by politicians anxious to placate—to use their own term—particular

local and sectional interests. How far this fear, which is undoubtedly very prevalent in the states, is justified by the history of state railroads in other countries is a question exceedingly difficult to answer. Dealing with state railroads in the lump, it is easy to point to some against which the charge would be conspicuously untrue. To take the most important state railroad organization in the world, the Prussian system, no one, I think, can fairly deny that it has been operated—in intention at least, if not always in result—for the greatest good of the greatest number. But then Prussia is Prussia, with a government in effect autocratic, with a civil service with strong *esprit de corps* and permeated with old traditions, leading them to regard themselves as the servants of the king rather than as candidates for popular favor. An American statesman, Charles Francis Adams, wrote as follows more than 30 years ago: "In applying results drawn from the experience of one country to problems which present themselves in another, the difference of social and political habit and education should ever be borne in mind. Because in the countries of continental Europe the state can and does hold close relations, amounting even to ownership, with the railroads, it does not follow that the same course could be successfully pursued in England or in America. The former nations are by political habit administrative, the latter are parliamentary. In other words, France and Germany are essentially executive in their governmental systems, while England and America are legislative. Now the executive may design, construct or operate a railroad; the legislative never can. A country therefore with a weak or unstable executive, or a crude and imperfect civil service, should accept with caution results achieved under a government of bureaus. Nevertheless, though conclusions cannot be adopted in the gross, there may be in them much good food for reflection."

#### CONTROL BY DEMOCRACY, OR OWNERSHIP BY AUTOCRACY.

I am inclined to think that the effect of the evidence is that the further a government departs from autocracy and develops in the direction of democracy, the less successful it is likely to be in the direct management of railroads. Belgium is far from being a pure democracy; but compared with Prussia it is democratic, and compared with Prussia its railroad management is certainly inferior. Popular opinion in Belgium seems at present to be exceedingly hostile to the railroad administration; official documents assert that, while the service to the public is bad, the staff are scandalously underpaid, and yet that the railroads are actually not paying their way. There was, it is true, till recently an accumulated surplus of profits carried in the railroad accounts, but the official figures have been recently revised, and the surplus is shown to be non-existent.

The Swiss experiment is too new to justify any very positive conclusions being drawn from it; but this much is clear: the state has had to pay for the acquisition of the private lines sums very much larger than were put forward in the original estimate; the surplus profits that were counted on have not been obtained in practice; the economies that were expected to result from unification have not been realized; the expenditure for salaries and wages has increased very largely; and so far from there being a profit to the Federal government, the official statement of the railroad administration is that, unless the utmost care is exercised in the future, the railroad receipts will not cover the railroad expenditure.

The Italian experiment is still newer. It would not be fair to say that it proves anything against state management; but I do not think that the most fervid *Etatist* would claim that, either on the ground of efficiency or on the ground of economy, it has so far furnished any argument in favor of that policy.

If we wish to study the state management of railroads by pure democracies of Anglo-Saxon type, we must go to our own Colonies. My own impressions, formed

after considerable study of the subject and having had the advantage of talking with not a few of the men who have made the history, I hesitate to give. It is easy to find partisan statements on both sides; for example, in a recent article in the *Nineteenth Century*, entitled "The Pure Politics Campaign in Canada," I find the following quotation from the *Montreal Gazette*—a paper of high standing—dated May 27, 1907: "Every job alleged against the Russian autocracy has been paralleled in kind in Canada. First, there is the awful example of the Intercolonial Railway, probably as to construction the most costly single-track system in North America, serving a good traffic-bearing country, with little or no competition during much of the year, and in connection with much of its length no competition at all, but so mishandled that one of its managers, giving up his job in disgust, said it was run like a comic opera. Some years it does not earn enough to pay the cost of operation and maintenance (I may interpolate that its gross earnings per mile are equal to those of an average United States railroad), and every year it needs a grant of one, two, three or four million dollars out of the Treasury to keep it in condition to do at a loss the business that comes to it. When land is to be bought for the road, somebody who knows what is intended obtains possession of it, and turns it over to the government at 40, 50 and 100 per cent. advance. This is established by the records of Parliament and of the courts of the land."

#### AFRICAN CAPE GOVERNMENT RAILROADS.

Probably no one outside the somewhat heated air of Canadian politics is likely to believe this damning accusation quite implicitly; but even if there were not a word of truth in it—and that the management of the Intercolonial Railway is, for whatever cause, bad, appears, I think, clearly from the public figures—it is bad enough that such charges should be publicly made and apparently believed. Let me quote now from a document of a very different type referring to a colony very far distant from Canada: "A memorandum relative to Railroad Organization, prepared at the request of the Railroad Commissioners of the Cape Government Railways, by Sir Thomas R. Price, formerly general manager of those railroads, and now general manager of the Central South African (i. e., Transvaal and Orange River) Railways, dated Johannesburg, February 22, 1907.

"The drawbacks in the management of the railroads in the Cape that call for removal arise from the extent to which, and the manner in which, the authority of Parliament is exercised. They are twofold in their character, viz.:

"(1) The practice of public authorities, influential persons, and others bent on securing concessions or other advantages which the general manager has either refused in the conscientious exercise of his functions, or is not likely to grant, making representation to the Commissioner (as the ministerial head of the Government), supplemented by such pressure, political influence, or other means as are considered perfectly legitimate in their way, and are best calculated to attain the end applicants have in view.

"(Many members of Parliament act similarly in the interests of the districts, constituents, or railroad employees in whom they happen to be interested. It is by no means unknown for the requests in both classes of cases to coincide somewhat with a critical division in Parliament—present or in prospect—or otherwise something has occurred which is regarded as irritating to the public or embarrassing to the Government, and the desire to minimize the effect by some conciliatory act is not unnatural.)

"(2) The extent to which the fictitious, and often transitory, importance which a community or district manages to acquire obscures (under the guise of the Colony's welfare) the consideration of the railroad and general interests of the Colony as a whole."

(During the earlier period of my railroad service in the Cape Colony few things impressed me more, coming as I had from a railroad conducted on strictly business lines, than the extent to which the conduct of railroad affairs was influenced by certain conditions. Nor was this impression lessened afterwards when, in the course of a conversation on the matter, Sir Charles Elliott mentioned to me that he had more than once told a late railway commissioner, "The Government is powerful, but [mentioning the town and authority] is more powerful still.")

"I do not regard it as open to doubt that the Colony as a whole has suffered severely in consequence, the inland portions of the Colony particularly so; and that the need

for a remedy is pressing if the railroads are to be conducted as a business concern for the benefit of the Colony.

"The necessity for the railroads and their administration being removed from such an atmosphere, and treated as a most valuable means of benefiting the Colony as a whole, while not neglecting the interests of a district (but not subordinating the welfare of the whole Colony thereto), is pressing. That there should be an authority to refer to in case of real necessity, where the decision or action of the general manager is not regarded as being in the public interests, is also clear. But it is equally manifest that the Commissioner or the Government of the day, with political or party consideration always in view, is not the proper court of reference.

"There can be little doubt that in the Cape Colony political considerations have influenced the adoption of new lines and their construction—many, if not most of them of an unprofitable character—without sufficient inquiry or information, often with scanty particulars, and possibly contrary to the advice of the officer afterwards entrusted with the construction and working of the line.

"A material change is imperatively necessary in this respect, if only to insure the solvency of the Colony."

#### VICTORIAN (AUSTRALIA) RAILROADS.

It is sometimes conceded that improper exercise of political influence may be a real danger where railroads are managed under a parliamentary *régime* by a Minister directly responsible to Parliament; but that difficulty, it is said, can be got over by the appointment of an independent Commission entirely outside the political arena. History does not altogether justify the contention. The last report of the Victorian State Railways gives a list of seven branches, with an aggregate length of 46 miles, constructed under the Commissioner *régime* at a cost of £387,000., which are now closed for traffic and abandoned because the gross receipts failed even to cover the out-of-pocket working expenses. It is not alleged, nor is it a fact, that those lines were constructed in consequence of any error of judgment on the part of the Commissioners. But in truth it is inherently impossible to use a Commission to protect a community against itself. In theory a Commission might be a despot perfectly benevolent and perfectly intelligent; in that case, however, it can hardly be said that the nation manages its own railroads. But of course any such idea is practically impossible, because despots, however benevolent and intelligent, cannot be made to fit into the framework of an Anglo-Saxon constitution. In practical life the Railway Commission must be responsible to someone, and that someone can only be a member of the political government of the day.

#### COMPETITION HAS CEASED TO REGULATE.

I have indicated what in America, where the subject is much more carefully considered than here, is regarded as a great obstacle to a state-railroad system; but I have pointed out also that it is quite possible that statesmen fully alive to the dangers may yet find themselves constrained to risk them unless some satisfactory method of controlling private railroad enterprise can be found. I do not think it can be considered that this has been done in England at the present time. In the main we have relied on the force of competition to secure for us reasonable service at not unreasonable rates; and as I still cherish a long-formed belief that English railroads are on the whole among the best, if not actually the best, in the world, I am far from saying that competition has not done its work well. But competition is an instrument that is at this moment breaking in our hands. Within quite a few years the South Eastern Railway was united with the Chatham; the Great Southern has obtained a monopoly over a large part of Ireland; in Scotland the Caledonian and the North British, the Highland and the Great North have in very great measure ceased to compete. If the present proposals for the working union of the Great Eastern, the Great Northern and the Great Central go through, competition in the East of England will be absolutely non-existent from the Channel

to the Tweed. And one can hardly suppose that matters will stop there. In fact, since this address was in type a comprehensive scheme of arrangement for a long term of years between the London & North Western and the Midland has been announced. We must, I think, assume that competition, which has done good work for the public in its day, is practically ceasing to have any real operation in regulating English railroads.

#### HOW SHALL GOVERNMENT REGULATE?

For regulation, therefore, we must fall back on government; but how shall a government exercise its functions? Regulation may be legislative, judicial, executive, or, as usually happens in practice, a combination of all three. But we may notice that, as Mr. Adams points out, in Anglo-Saxon countries it is the Legislature and the Judicature that are predominant; whereas in a country like France, which though a democracy is bureaucratically organized, it is executive regulation that is most important. Now, the capacity of the Legislature to regulate is strictly limited; it can lay down general rules; it can, so to speak, provide a framework, but it cannot decide *ad hoc* how to fit into that framework the innumerable questions that come up for practical decision day by day.

The capacity of the law courts to regulate is even more strictly limited. For not only is it confined within the precise limits of the jurisdiction expressly conferred upon it by the Legislature, but further, by the necessity of the case, a court of law can only decide the particular case brought before it; a hundred other cases, equally important in principle, and perhaps more important in practice, may never be brought before it at all. Even if the court had decided all the principles, it has no machinery to secure their application to any other case than the one particular case on which judgment was given. There was a case decided 30 years ago by our Railroad Commission, the principle of which, had it been generally applied throughout the country, would have revolutionized the whole carrying business of Great Britain. It has not been so applied, to the great advantage, in my judgment, of English trade. Further, the great bulk of the cases which make up the practical work of a railroad: "What is a reasonable rate, having regard to all the circumstances, present and prospective, of the case? Would it be reasonable to run a new train or to take off an old one? Would it be reasonable to open a new station, to extend the area of free cartage, and the like?"—all these are questions of discretion, of commercial instinct. They can only be answered with a "Probably on the whole," not with a categorical "Yes" or "No," and they are absolutely unsuitable for determination by the positive methods of the law court with its precisely defined issues, its sworn evidence, and its rigorous exclusion of what, while the lawyer describes it as irrelevant, is often precisely the class of consideration which would determine one way or other the decision of the practical man of business.

It seems to me, therefore, that both in England and in America we must expect to see in the near future a considerable development of executive government control over railroads.

This is not the place to discuss in detail the form that control should take, but one or two general observations seem worth making. The leading example of executive control is France; in that country the system is worked out with all the French neatness and all the French logic. But it is impossible to imagine the French principle being transplanted here. For one thing, the whole French railroad finance rests upon the guarantee of the government. The French government pays, or at least is liable to pay, the piper, and has, therefore, the right to call the tune. The English government has not paid and does not propose to pay, and its claim to call the tune is therefore much less. Morally the French govern-

ment has a right—so far at least as the railroad shareholders are concerned—to call on a French company to carry workmen at a loss; morally, in my judgment at least, the English government has no such right. But there is a further objection to the French system: the officers of the French companies have on their own responsibility to form their own decisions, and then the officers of the French government have, also on their own responsibility, to decide whether the decision of the company's officer shall be allowed to take effect or not. The company's officer has the most knowledge and the most interest in deciding rightly, but the government official has the supreme power. The system has worked—largely, I think, because the principal officers of the companies have been trained as government servants in one or other of the great Engineering Corps, des Mines or des Ponts et Chaussées. But it is vicious in principle, and in any case would not bear transplanting.

What we need is a system under which the responsibility rests, as at present, with a single man (let us call him the general manager), and he does what he on the whole decides to be best, subject however to this: that if he does what no reasonable man could do, or refuses to do what any reasonable man would do, there shall be a power behind to restrain, or, as the case may be, to compel him. And that power may, I think, safely be simply the Minister—let us call him the President of the Board of Trade. For, be it observed, the question for him is not the exceedingly difficult and complicated question, "What is best to be done?" but the quite simple question, "Is the decision come to which I am asked to reverse so obviously wrong that no reasonable man could honestly make it?"

And even this comparatively simple question the President would not be expected to decide unaided. He will need competent advisory bodies. Railroad history shows two such bodies that have been eminently successful—the Prussian State Railway Councils and the Massachusetts Railroad Commission. Wholly unlike in most respects, they are yet alike in this: their proceedings are public, their conclusions are published, and those conclusions have no mandatory force whatever. And it is to these causes that, in my judgment, their success, which is undeniable, is mainly due. Let me describe both bodies a little more at length.

There are in Prussia a number (about ten I think) of District Railway Councils, and there is also one National Council; they consist of a certain number of representative traders, manufacturers, agriculturists, and the like, together with a certain number of government nominees; and the railroad officials concerned take part in their proceedings, but without votes. The Councils meet three or four times a year, their agenda paper is prepared and circulated in advance, and all proposed changes of general interest, whether in rates or in service, are brought before them, from the railroad side or the public side, as the case may be. The decision of the Council is then available for information of the Minister and his subordinates, but as has been said, it binds nobody.

The Massachusetts Railroad Commission is a body of three persons, usually one lawyer, one engineer, and one man of business, appointed for a term of years by the Governor of the state. Originally the powers of this Commission were confined to the expression of opinion. If a trade, or a locality, or indeed a single individual, thought he was being treated badly by a Massachusetts railroad, he could complain to the Commission; his complaint was heard in public; the answer of the railroad company was made there and then; and thereupon the Commissioners expressed their reasoned opinion. The system has existed now for more than 30 years, and it is safe to say that, with negligible exceptions, if the Commission expresses the opinion that the railroad is in the right, the applicant accepts it; if the Commission says that the applicant has a real grievance, the railroad promptly redresses it on the lines which the Commissioner's opinion has indicated. The success of the Commission in gaining the confidence of both sides has been so great



that of late years its powers have been extended, and it has been given, for example, authority to control the issue of new capital and the construction of new lines. But on the question with which we are specially concerned here, the conduct of existing railroad companies as public servants, it can still do nothing but express an opinion; and it may be added that the Commission itself has more than once objected to any extension of that power.

Mr. Adams, from whom I have already quoted, was the first Chairman of the Commission. He has described their position as resting "on the one great social feature which distinguishes modern civilization from any other of which we have a record, the eventual supremacy of an enlightened public opinion." That public opinion is supreme in this country, few would be found to deny; that public opinion in railroad matters is enlightened, few would care to assert. But given the enlightened public opinion, one can hardly doubt that it will secure not merely eventual but immediate supremacy. In truth, as Bagehot once pointed out, a great company is of necessity timorous in confronting public opinion. It is so large that it must have many enemies, and its business is so extended that it offers innumerable marks to shoot at. It is much more likely to make, for the sake of peace, concessions that ought not to be made than it is to resist a demand that reasonable men with no personal interest in the matter publicly declare to be such as ought rightly to be conceded.

To sum up in a sentence the lesson which I think the history we have been considering conveys, it is this: Closer connection than has hitherto existed between the state and its railroads has got to come, both in this country and in the United States. Hitherto in Anglo-Saxon democracies neither state ownership nor state control has been over-successful. The best success has been obtained by relying for control, not on the constable, but on the eventual supremacy of an enlightened public opinion. Nearly 20 years ago, in the pages of the *Economic Journal*, I appealed to English economists to give us a serious study of what the Americans call the transportation problem in its broad economic and political aspects. Since then half-a-dozen partisan works have appeared on the subject, not one of them in my judgment, worth the paper on which it is printed; but not a single serious work by a trained economist. And yet such a work is to-day needed more than ever. Let me once more appeal to some of our younger men to come forward, stop the gap, and enlighten public opinion.



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